

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SALUS CAPITAL PARTNERS, LLC, : 1:17-cv-5536-NRB
:
Petitioner, :
v. : DECLARATION IN
: OPPOSITION TO
ANDREW MOSER, : RESPONDENT'S MOTION
:
Respondent. :
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LEONARD A. RODES, ESQ., hereby declares pursuant to 28 U.S.C. §1746:

1. I am an attorney duly licensed to practice law before the Bar of this Court. I am a partner in Trachtenberg Rodes & Friedberg LLP, attorneys for petitioner, Salus Capital Partners, LLC (“Salus”).

2. I respectfully submit this declaration in opposition to the motion by the respondent, Andrew Moser (“Moser”), to dismiss this proceeding or alternatively to vacate parts of an arbitration award (“Respondent’s Motion”), and further support of Salus’s “Petition To Confirm Arbitration Award” (the “Petition” or “Pet.”).

3. A true and correct copy of the Petition, including the Notice thereof and its exhibits (“PX”), denominated A through D, is annexed hereto as **Rodes Exhibit 1**.

4. PX A is a true and correct copy of an employment agreement between Salus and Moser (the “Employment Agreement” or “Empl. Agr.”).

5. PX B is a true and correct copy of Salus’s operating agreement (the “LLC Agreement” or “LLC Agr.”).

6. PX C is true and correct copy of the Partial Final Award (“Partial Award”) issued in the underlying arbitration by the arbitrator, Alfred G. Feliu, Esq. (the “Arbitrator”), on December 29, 2016.

7. PX D is a true and correct copy of the Final Award ("Final Award") issued by the Arbitrator on April 17, 2017.

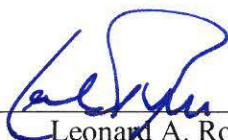
8. Annexed hereto as **Rodes Exhibit 2** is a true and correct copy of an affidavit of service sworn to by a Massachusetts deputy sheriff, attesting to "leave and mail" service of the Notice of Petition and Petition upon Moser, along with notice thereof.

9. Annexed hereto as **Rodes Exhibit 3** is a true and correct copy of my letter to the Court, dated July 31, 2017, which, among other things, explains why Moser's Rule 12 defenses are without merit.

10. Salus has been represented in this matter, initially, by the Braverman Law Office PC, Garden City, NY (the "Braverman Firm"), which prepared and filed the Petition in state court, and then by my firm, Trachtenberg Rodes & Friedberg LLP, New York, NY ("TRF"), which substituted for the Braverman Firm after Moser removed and filed his motion. Upon denial of Respondent's Motion, Salus respectfully requests an opportunity to submit proof and calculation of the fees and expenses charged by the Braverman Firm and TRF in connection with this proceeding, so that such costs may be awarded in the judgment sought by the Petition, as contractually permitted.

I, Leonard A. Rodes, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: New York, New York
August 31, 2017



Leonard A. Rodes